

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-20-15
LOWER VALLEY RANCHETTES
AUGUST 26, 2020

I. GENERAL INFORMATION

A. Project Description

The proposal is for preliminary plat approval of a 5 residential lot subdivision. The property will be served by individual septic systems and wells. The property is located Lower Valley Road between Tango Fox Lane and Swan View Road near Kalispell, MT.

B. Project Personnel

i. Owner

Sandra O'Connell
2727 Lower Valley Road
Kalispell, MT 59901

ii. Tech. Representative

406 Engineering, Inc
35 8th Street East
Kalispell, MT 59901

C. Application Review Dates

1. Land Use Advisory Committee/Council

The proposal is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on September 9, 2020 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

3. Commission

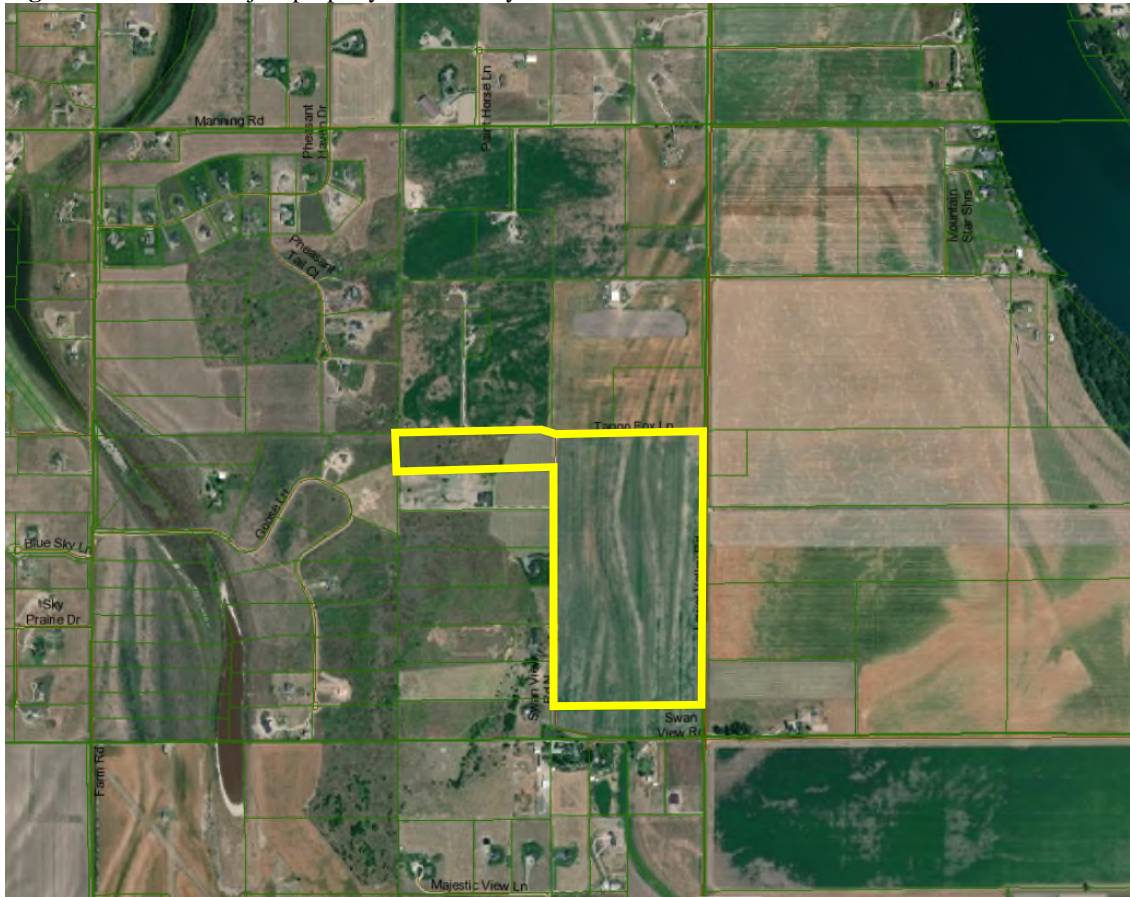
The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to October 15, 2020 which is the end of the 60-working day statutory review period.

II. ADMINISTRATIVE CHARACTERISTICS

A. Legal Description and Detailed Location of Subject Property

The subject property is 83.9 acres in size and is located southwest of the Lower Valley Road and Tango Fox Lane intersection south of Kalispell, Montana. The property can legally be described as Tract 1 of COS 17529 in Section 08, Township 27 North, Range 20 West, P.M.M Flathead County, MT.

Figure 1: Aerial of subject property outlined in yellow



B. Subdivision Layout Detail

1. Total Subdivision Acreage:	83.9 acres
2. Acreage in Lots:	83.9 acres
3. Acreage in Roads:	5.83 acres
4. Total Park/Common Area/Open Space Acreage:	0.00 acres
5. Minimum Lot Size:	10.18 acres
6. Maximum Lot Size:	21.65 acres
7. Density:	1 units per 16.78 acres

C. Current Land Use and Zoning

The property is currently not developed and used for agriculture. The property is not zoned.

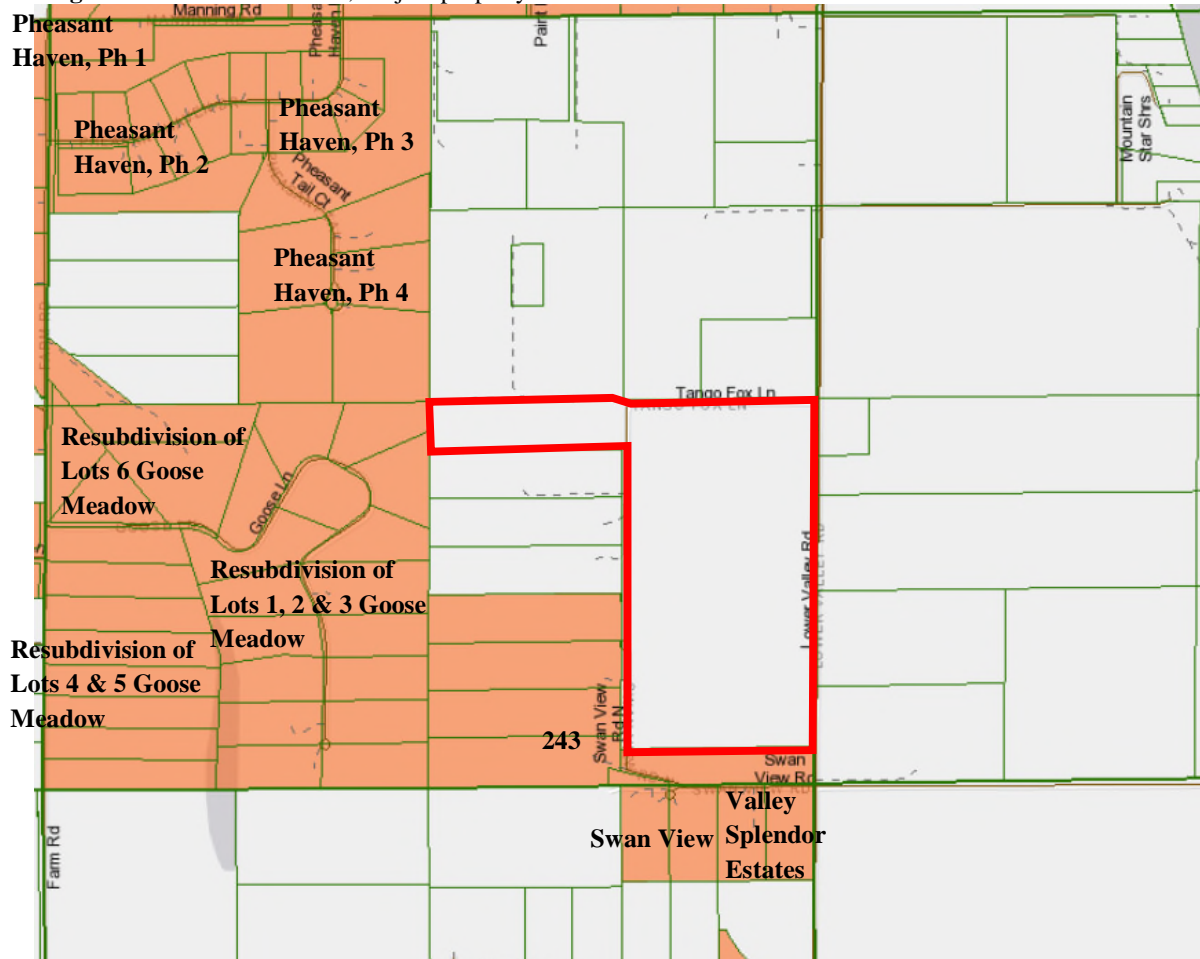
D. Proposed Land Use

The proposed subdivision would create 5 residential lots. The applicant is proposing no common area/open space and will utilize Tango Fox Lane and Swan View Road, existing roads for access to the proposed lots.

E. Previously Considered Subdivisions in Area

Subdivision Name (year approved)	Type	Total Lots	Average Lot Size
Subdivision 243 (2004)	Residential	5	10.0 acres
Swan View (1999)	Residential	2	5.1 acres
Valley Splendor Estates (1995)	Residential	2	5.1 acres
Majestic Valley Meadows (1997)	Residential	2	5.1 acres
Resub Lot 1-3 of Goose Meadows (2006)	Residential	17	5.0 acres
Resub Lot 4-5 of Goose Meadows (2005)	Residential	8	6.0 acres
Resub Lot 6 of Goose Meadows (2007)	Residential	4	7.5 acres
Pheasant Haven Ph. 1 (2004)	Residential	1	4.6 acres
Pheasant Haven Ph. 2 (2006)	Residential	12	2.0 acres
Pheasant Haven Ph. 3 (2006)	Residential	6	1.8 acres
Pheasant Haven Ph. 4 (2015)	Residential	5	8.2 acres

Figure 3 - Area subdivisions, subject property shown in red



F. Utilities and Services

- 1. Wastewater:** Individual Wastewater Treatment systems
- 2. Water:** Community Well
- 3. Solid Waste:** Evergreen Disposal
- 4. Schools:** Somers School District
Bigfork High School District
- 5. Fire:** Somers Fire District
- 6. Police:** Flathead County Sheriff

III. COMMENTS RECEIVED

A. Agency Comments

1. Referrals were sent to the following agencies on July 22, 2020:
 - Flathead County Road and Bridge
 - Flathead County Solid Waste
 - Flathead City-County Environmental Health Department
 - Somers Fire District
 - Somers School District
 - Bigfork High School District
 - Montana Fish Wildlife and Parks
 - Flathead County Weeds and Parks Department
 - Montana Department of Natural Resources and Conservation
 - Flathead County Address Coordinator/GIS Department
 - Bonneville Power Administration
 - Flathead County Sheriff
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
 - Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated July 27, 2020.
 - Flathead County Solid Waste
 - Comment: “The District requests that all new subdivisions use a private hauler to bring solid waste to the landfill. Evergreen Disposal is the (PSC) Public Service Commission licensed hauler in this area.” Letter dated July 30, 2020
 - Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the property is located 3.70 miles away from the nearest BPA transmission lines or structures.” Email received July 24, 2020
 - Montana Fish, Wildlife and Parks
 - Comment: “[...]. The subdivision is located in current agricultural lands and is within a mile of the Flathead River riparian corridor. These agricultural lands along the river corridor have historically provided important habitat for numerous wildlife species, including spring nesting habitat and fall feeding for migratory waterfowl, pheasants and turkeys, as

well as habitat for white tail deer and elk. The nearby riparian areas compromise important movement corridors for both grizzly and black bears, as well as the occasional mountain lion. We anticipate that the development of the subdivision will result in increased levels of human-wildlife conflicts. Cumulative impacts from continued subdivision development will add to the continued loss of wildlife habitat in the Flathead Valley.

- “Human developments within the wildlife habitat result in anthropomorphic attractants that often bring wildlife into conflict with people. This subdivision will result in increased conflicts primarily with black bears and white tailed deer.
- “By reducing attractants, homeowners can ensure public human safety and the wildlife that will continue to frequent the area. To reduce the potential for human/bear, human/mountain lion/, human/deer, and other human/wildlife conflicts associated with new developments, FWP prints several brochures that can be helpful in preventing/reducing human/wildlife conflicts. These Brochures include such title as Living With Black Bears, Living with Grizzlies, Why Is This Bear in My Backyard, Living With Mountain Lions, Living With Deer, Living With Skunks, Living With Raccoons, Living With Woodpeckers, Living With Bats Putting Out the Unwelcome Mat, and Living With Dogs and Cats. FWP encourages developers or homeowners associations to provide copies of the above brochures to all new property owners. These brochures can be found on the FWP website at <http://fwp.mt.gov/fishandwildlife/livingwithwildlife/>.
- “The following conditions are recommended to minimize problems that future homeowners could have with wildlife, as well as help those individuals protect themselves, their property, and the wildlife. I recommend that all future property owners in this subdivision be made aware of the potential for wildlife conflicts and be given a copy of the following information. Future homeowners need to be aware that FWP cannot respond to all wildlife problems, and it is the homeowner’s responsibility to avoid such problems. We recommend that the developer adopt the following covenants to mitigate human-wildlife conflicts: [...]. (See letter).” Letter received July 30, 2020.
- Flathead City-County Environmental Health Department
 - Comment: “The project proposes five (5) new lots ranging in size from 10.18 acres to 21.9 acres. Four (4) lots are under 20 acres net, exclusive of Lower Valley Road a public roadway. These lots, 1, 2, 3, and 5, meet the definition of a subdivision and are thus subject to review under Title 76-4, Part 1, MCA, Sanitation in Subdivisions. This review addresses potable water supply, wastewater treatment, storm drainage, and solid waste disposal.” Letter dated July 30, 2020

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on August 23, 2020, legal notice was published in the Daily

Interlake on August 21, 2020, and notice of the proposal and public hearing was physically posted onsite on August 24, 2020.

As of the date of the completion of this staff report, no public comments have been received from the general public regarding the proposal. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed in Section 76-3-608(3) MCA and the review procedure outlined in Section 4.1 of the Flathead County Subdivision Regulations (FCSR), effective December 3, 2018.

1. Agriculture and Agricultural Water User Facilities

The soils report indicated that the property is not prime farmland. The property is not currently used for agriculture and according to the Environmental Assessment, “The attached USGS Soils Survey map by the USDA show the acreage and type of soils predicted to be on the property. About three-fourths of the acreage contains soils listed by the USDA soil web survey as ‘Prime farmland if irrigated.’ The remaining acreage is listed by the USDA soil web survey as ‘Not prime farmland.’ The property is not irrigated. Despite the classification by the USDA, the property has been used in agricultural production for decades. However, the subdivision will create new parcels that are large enough to continue agricultural use of the property.”

It does not appear the proposal would impact the ability of neighboring properties to continue agricultural production. The evaluation of the Preliminary Plat, Environmental Assessment, and supporting documentation included with the application has identified no adverse impacts to onsite or area agriculture which would necessitate special mitigation.

As indicated in the submitted Environmental Assessment, there are no agricultural water works, wells, canals, irrigation ditches or pump houses onsite. The subject property is not developed with irrigation infrastructure, is not in an irrigation district or party to any irrigation agreements, and serves no irrigation water to adjacent or neighboring properties.

Finding #1 – The proposal appears to have minimal impact on agriculture and agricultural water user facilities because the subject property is not currently irrigated for agricultural purposes, has no irrigation infrastructure on site, is not in an irrigation district, is not party to any existing irrigation agreements and the lot sizes would allow for the continuation of agriculture on the property.

2. Local Services

a. Water and Wastewater Services

The application indicates, “The homes will be served by a new individual wells located on each respective lots. [...]. Each home is projected to utilize about 200 gallons per day on average for domestic service. The irrigation use for each home

is estimated to be about 1350 gallons of water per day (15 gpm for 1.5 hours each day).

“The lots will be used for single-family residences that will dispose of sewer via on-site pressurized sewage treatment systems (septic tank and drainfields).”

Comments from the Environmental Health office state, “The project proposes five (5) new lots ranging in size from 10.18 acres to 21.9 acres. Four (4) lots are under 20 acres net, exclusive of Lower Valley Road a public roadway. These lots, 1, 2, 3, and 5, meet the definition of a subdivision and are thus subject to review under Title 76-4, Part 1, MCA, Sanitation in Subdivisions. This review addresses potable water supply, wastewater treatment, storm drainage, and solid waste disposal.”

After comments were received from the Environmental Health Department the applicant made changes to the preliminary plat so lots 3, 4, and 5 are all over 20 net acres and therefore would not be subject to review. Water and wastewater services for two of the lots within the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality. The impacts to existing water and wastewater services are anticipated to be minimal because the subdivision will utilize an individual well and septic.

Section 4.7.21 FCSR states, “For those lots which range in size from 20 acres to 160 acres and on-site sewer and water facilities is not sought prior to final plat review, a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for individual sewer or water facilities or for storm water drainage.”

Finding #2 – The proposed water supply and wastewater services for lots 1 and 2 appear to be appropriate because adequate water quantity and quality appears to exist proposed community well and the water and wastewater systems for lots 1 and 2 would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation.

Finding #3 – Impacts on local wastewater and water for lots 3, 4, and 5 have not been determined because they are over 20 acres in size which are exempt from DEQ, the applicant has not sought on-site sewer and water facilities and a disclaimer shall be placed on the face of the final plat stating lots 3, 4, and 5 have not been reviewed or approved for individual sewer or water facilities.

b. Solid Waste Disposal

The developer is proposing contract haul as a mechanism for solid waste disposal as requested of all subdivisions by the Flathead County Solid Waste Department. Evergreen Disposal will be the PSC responsible for solid waste disposal in this area.

Finding # 4 – Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.

c. Roads

The subdivision is accessed from Swan View Road or Tango Fox Lane via Lower Valley Road. Tango Fox Lane is an 18 foot wide paved local road and Swan View

Road is a paved local road of varying width. Tango Fox is within 60 foot easement and Swan View Road is a 40 foot easement. No lots will have access from Lower Valley Road. Traffic counts for Swan View Road and Tango Fox Lane are not available. Staff calculates the average daily trips for Swan View Road to be 60 based on the number of houses that utilize the road and 20 ADT for Tango Fox Lane.

The applicant has requested a variance to roadway improvement requirements for the access roads which will be discussed below. If the variance is not approved the developer would be required to widen the paved area on the access roads.

The Flathead County Road and Bridge Department had no concerns with the proposal.

Finding #5 – Impacts on area roads would appear to be acceptable because the Flathead County Road and Bridge Department had no concerns, the proposal has the potential to increase traffic by 20 trips per day on Swan View Road and 30 vehicle trips per day on Tango Fox Lane and if the variance is approved widening the primary access roads to county standards would not be required.

d. Schools

The proposal is located in the Somers Elementary and Bigfork High School Districts. According to the recent Census Data there are 48,741 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2019 states there are 16,422 students enrolled in public, private and home schools. The total students (16,422) divided by the total households (48,741) equals approximately 0.34 students per household. Therefore, 5 lots could generate approximately 2 school age children.

The Somers Elementary School District has seen an increase of 3% in the last ten years and 2% increase over the previous school year. The Bigfork High School District has seen a 33% decrease in the last ten years and 7% increase over the last year. The school districts did not provide comments regarding this proposal.

e. Mail Delivery

The applicant states the mail boxes will be individual. The developer will be required to submit plans for review and written approval from the local postmaster as a condition of preliminary plat approval.

f. Recreation

Pursuant to Section 4.7.24(a)(i) FCSR, parkland dedication is not required for subdivisions lots created that are greater than five gross acres in size. All the lots within the subdivision are over five gross acres. The subdivision offers many recreation opportunities given its proximity to Glacier National Park and National Forest lands for hiking, camping, and hunting, and area lakes and rivers for swimming, fishing, and boating.

The Flathead County Trails Plan designates Lower Valley Road as proposed collector therefore a bicycle and pedestrian easement will be required along the south side of the subject property, running parallel to Lower Valley Road, in accordance with Section 4.7.19 of the subdivision regulations.

Finding #6 – Impacts on local services with regard to schools, recreation and mail delivery would appear to be acceptable as the proposed subdivision would add approximately two school age children, the applicant is proposing individual mailboxes, and a bike/pedestrian trail easement is required.

3. Public Health And Safety

a. Storm Water Drainage

The submitted application includes a conceptual plan for the management of storm water for Lots 1 and 2. The Environmental Assessment notes, “The methods used to mitigate water generated from impervious surfaces will include construction of lawn and landscaping, retention facilities near home sites, and diversion of storm water from impervious surfaces to undisturbed areas. Storm water calculations are included in the storm water report included in the preliminary plat application.”

The soil on the property is well drained which will add in on-site absorption of storm water. The proposal does not contain internal subdivision roads and the applicant is requesting a variance to off-site improvement requirements as such no new impervious surface would be created that would impact storm water drainage.

The subdivision would create 3 lots larger than 20 acres in size. The applicant is not proposing to undergo DEQ review with those lots for storm water drainage. Section 4.7.21 FCSR states, “For those lots which range in size from 20 acres to 160 acres and on-site sewer and water facilities is not sought prior to final plat review, a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for individual sewer or water facilities or for storm water drainage.”

Finding #7 – Impacts from storm water run-off on Lots 1 and 2 will be acceptable because the existing soils are well drained, the proposed storm drainage calculation and retention areas appear to meet or exceed DEQ requirements.

Finding #8 – Impacts on storm water drainage have not been determined for Lots 3, 4, and 5 because the lots are over 20 acres in size which are exempt from DEQ and a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for storm water drainage.

b. Fire/Emergency Medical Services

The proposed subdivision is located within the Somers Fire District. The nearest fire station is located south of Highway 82 approximately 3.8 road miles southwest of the subject property. Because of the proximity to the proposed subdivision, the anticipated response time would be minimal. No comments were received from the fire department regarding this request. It is not anticipated the proposed subdivision would overburden the district as the site is within an acceptable distance to the fire station with access to each site.

Ambulance service would be available to serve the proposed subdivision, as well as ALERT service by the Kalispell Regional Medical Center.

c. Police Services

The property is located outside city limits and will be served by the Flathead County Sheriff. The Sheriff’s Department did not respond to a request for comments.

Given existing staffing, the size of the County and the dispersed nature of the population, police services to this subdivision are anticipated to be consistent with other areas of Flathead County.

Finding #9– Impacts on fire, medical and police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Somers Fire District and Flathead County Sheriff’s Department in the event of an emergency.

d. Impact of Noise

It is estimated that the development of the subdivision would generate noise during construction of the subdivision and minimal noise during development of the lots. No noise beyond what is typical for a residential area is anticipated as a result of the proposed subdivision. The proposed residential use is not anticipated to generate permanent continuous noise impacting area residents or wildlife.

e. Air Quality

Primary access to the subdivision occurs via Swan View Road or Tango Fox Lane which are paved roadways. All internal lots are accessed via proposed paved subdivision roads. The applicant has submitted a “Dust Control Plan” compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

Finding #10 – Adverse impacts to air quality and of noise are anticipated to be acceptable with standard conditions as all roads accessing the subdivision are already paved, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines.

f. High Voltage Electric Lines/High Pressure Gas Lines

There are no high pressure gas lines or high voltage electrical lines on the subject property. BPA comment states, “At this time, BPA does not object to this request, as the property is located 3.70 miles away from the nearest BPA transmission lines or structures.”

g. Airport Influence Areas

The subject property is not within an airport influence area.

Finding #11 – The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near any of these hazards.

4. Natural Environment

a. Soils

According to NRCS soils data, the soils on the subject property consist of Corvallis silty clay loam (Cd), Kalispell loam (Kt), Somers silt loam (Sd) Somers silty clay loam (Sg) and Tuffit-Somers silty clay loams (Th).

According to the soil survey, the Kt soil classification is moderately deep over sand, 12 to 40 slope and not prime farmland. The Cd, Sg and Sd soils are classified as

prime farmland if irrigated with 0 to 3 percent slopes. Th has 0 to 5 percent slopes and is classified as not prime farmland.

b. Geologic/Avalanche Hazards

The subject property is located in a relatively flat area. There does not appear to be any known geological hazards that exist within the subject property. The subdivision is not located in an area of the county considered to be prone to avalanche hazards.

Finding #12 – No impacts from soils, geological and avalanche hazards are anticipated because the property is flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.

c. Flora

A search conducted by the Montana Natural Heritage Program identified this general area of the County may contain seven plant species of concern. The species of concern in the vicinity include; Howell's Quillwort, Straightbeak Buttercup, Bristly Sedge, Panic Grass Giant Helleborine, Guadalupe Water-nymph, and Columbia Water-meal. All seven species are found in wetland/riparian areas or aquatic environments which are not present on the subject property.

Most noxious weeds thrive when soil is disturbed. Some can grow from root parts, as well as seeds that become exposed. Pursuant to Section 4.7.25 FCSR the subdivision will be required to develop and implement a weed control plan approved by the Flathead County Weeds Department prior to final plat approval.

Finding #13 – No impacts on flora are anticipated because no plant species of concern are found on-site, and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval.

d. Riparian/Wetland Areas

The subject property does not contain any surface waters, wetlands or riparian areas.

e. Floodplain

According to FEMA FIRM Panel 30029C2285J, the subject property is mapped as shaded and unshaded Zone X. Shaded Zone X is defined as areas inside of the 0.2% annual chance flood hazard area and unshaded is defined as areas outside of the 0.2% annual chance flood hazard area.

Finding #14 – No impacts to riparian area, wetland and floodplain are anticipated on the subject property as there are no riparian area, wetlands or floodplain on the property.

5. Wildlife and Wildlife Habitat

According to a search of the Montana Natural Heritage Program, 18 wildlife Species of Concern exist within the boundaries of Township 27 N, Range 20 W. the 18 species of concern are Townsend's Big-eared Bat, Wolverine, Canada Lynx, Little Brown Myotis, Fisher, Grizzly Bear, Northern Goshawk, Great Blue Heron, Brown Creeper,

Evening Grosbeak, Pileated Woodpecker, Cassin's Finch, Varied Thrasher, Westslope Cutthroat, Pygmy Whitefish, Bull Trout, and Cordilleran Forestfly.

Westslope Cutthroat, Pygmy Whitefish, Bull Trout and Hooked Snowfly live in mountain streams, rivers and lakes, the property is ¾ of a mile from the Flathead River and nearest river or stream. The Cordilleran Forestfly's habitat is alpine/mountain streams which are not present on the subject property. All the listed species of birds except the Great Blue Heron have a conifer or mixed conifer forest habitat which is not present on-site. Townsend's Big-eared Bat habitat includes caves in forest areas, Wolverines live in boreal forest and alpine habitat, Lynx live in subalpine conifer forest, and Fisher's habitat includes mixed conifer forests none of which are present on-site. Little Brown Myotis are generalist and can roost in attics, barns, bridges, snags, loose bark, and bat houses. The property does not currently contain any structures.

Comments from Montana Fish, Wildlife and Parks (FWP) indicate, "The subdivision is located in current agricultural lands and is within a mile of the Flathead River riparian corridor. These agricultural lands along the river corridor have historically provided important habitat for numerous wildlife species, including spring nesting habitat and fall feeding for migratory waterfowl, pheasants and turkeys, as well as habitat for white tail deer and elk. The nearby riparian areas compromise important movement corridors for both grizzly and black bears, as well as the occasional mountain lion. We anticipate that the development of the subdivision will result in increased levels of human-wildlife conflicts. Cumulative impacts from continued subdivision development will add to the continued loss of wildlife habitat in the Flathead Valley.

"Human developments within the wildlife habitat result in anthropomorphic attractants that often bring wildlife into conflict with people. This subdivision will result in increased conflicts primarily with black bears and white tailed deer."

Based on FWP comments the property could provide habitat or compromise important movement corridors for two species of concern, Great Blue Heron, and Grizzly Bears. In addition to the species of concern FWP also lists other wildlife that might be impacted by subdivision on the property. Montana FWP provide a list of 11 items that they recommend the developer adopt into the HOA Covenants to mitigate human and wildlife conflict.

Finding #15 – The proposed subdivision could have an impact on migratory waterfowl, birds, deer, elk, bears, mountain lions and their habitat because agricultural lands along the river corridor have historically provided important habitat for numerous wildlife species and the nearby riparian areas compromise important movement corridors for both grizzly and black bears, as well as the occasional mountain lion, these impacts could be minimized with FWP recommended covenants however the applicant is not proposing any covenants for this subdivision.

6. Historical Features

The applicant contacted the State Historical Preservation Office (SHPO) which has no record of any historical or culturally significant use on the subject property. There does not appear to be any historic, archeological, or cultural sites on the subject property.

Finding #16 – The proposed subdivision will not adversely impact historical features because there are no known historic, archeological, or cultural sites on the subject property.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #17 – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations and Review Procedure

1. Requested Variances

The application includes a request for a variance from Section 4.7.17(f) of the Flathead County Subdivision Regulations which states, *“For a subdivision which will contribute 50 or less average vehicle trips (ADT) per day to the County road system and where the primary access to the subdivision is an existing unpaved road (either public or private), the Commission shall require the subdivider to improve and pave a portion of the road. i. The distance of required paving and the extent of required improvements shall be determined per the methodology of the ‘standard improvement formula’ (see section i below); or ii. The distance of required paving and the extent of required improvements shall maintain the identified existing Level of Service (LOS) as determined by a Traffic Impact Study (TIS) conforming to the requirements of section j below. The TIS shall be completed by a licensed professional engineer and submitted with the preliminary plat application. The subdivider shall be required to make transportation improvements recommended in the Traffic Impact Study to maintain the identified existing Level of Service (LOS) and which are directly attributable to the proposed subdivision.”*

Tango Fox Lane is an 18 foot wide paved local road within a 60 foot easement. Swan View Road is a paved road that varies in width from 17 feet to 22 feet wide. The majority of Swan View Road appears to meet County Road standards.

Subject to compliance with FCSR Section 4.0.11, the Commission shall not approve a variance unless it finds that all of the following are met:

i. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

The applicant states, “The existing condition Tango Fox Lane and Swan View Road North are sufficient for the existing and additional traffic created by this subdivision. Three of the proposed lots will be accessed by the 18’ wide Tango Fox Lane, which will generate an estimated 30 trips per day. Two additional lots will have access via the 17’ wide Swan View Road North generating an estimated 20 trips per day.”

There would likely be minimal impacts to public health, safety, and general welfare as a result because the roads are paved, and would have a low traffic volume.

- ii. Because of the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;**

The hardship according to the applicant is, “The shape of this parcel combined with the existing roads Tango Fox Lane and Swan View Lane provide for unique circumstances for this variance. Both existing roads are low volume Cul-de-sac roads with no opportunity for thru traffic. If these existing roads didn’t exist and/or we had a different shaped parcel, then these lots would be served by new driveways via Lower Valley Road.”

Tango Fox Lane is within 60 foot easement and Swan View Road is a 40 foot easement. The property is located in rural area on a paved County Collector with low traffic volumes. The both Tango Fox Lane and Swan View Road North have low traffic volumes. Both roads would only accommodate local traffic which contributes to the low traffic volumes on the road.

- iii. The variance will not cause a substantial increase in public costs, now or in the future;**

The proposed variance is not likely to increase public costs now or in the future because both Tango Fox Lane and Swan View Road North are private roadways and so both are privately maintained.

- iv. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;**

The property is not located in an area that is zoned or part of a neighborhood plan. The Growth Policy discusses transportation in Chapter 6 and specifically addresses road improvement in policies 24.2 and 24.3. Those policies state, “P.24.2 *Require County road improvements to mitigate impacts directly attributable to a subdivision or development as a necessary component of that development to preserve the carrying capacity of the roadway.*

“P.24.3 *Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.*”

The other criteria for the variance will determine if the development will negatively impact the roadway if no improvements are completed on either private road.

- v. The variance is consistent with the surrounding community character of the area.**

According to the applicant, “The surrounding properties are medium to large tract residential and agriculture parcels with low volume private road access. The roads proposed for the subdivision provide adequate and safe access to the lots while preserving the rural character of the neighborhood.”

The variance is partially consistent with the surrounding community character of the area because it is located in a relatively rural area and the proposed subdivision would only add 50 additional vehicle trips to the road system. Many of the roads

in the Lower Valley area that serve a similar number of lots and homes are gravel and not paves at all.

Finding #18 –The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a rural/low density setting, both road are privately maintained and it would be constant with the surrounding community character.

2. Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

April 9, 2020

ii. Application Deadline Date (6 months from pre-application)

October 9, 2020

iii. Application Submittal Date

June 30, 2020

iv. Completeness Date

July 2, 2020

v. Sufficiency Date

July 22, 2020

vi. Agency Referral Requests Mailing Date

July 22, 2020

vii. Adjacent Property Notification Mailing Date

August 21, 2020

viii. Legal Notice Publication Date

August 23, 2020

ix. On-site Posting of Public Hearing Date

August 24, 2020

Finding #19 – The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

D. Provision of Easements for the Location and Installation of Planned Utilities

Finding #20 – The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

E. Provision of Legal and Physical Access to Each Parcel

As shown on the preliminary plat, primary access to the lots within the subdivision would be from existing private roads. As previously stated, Tango Fox Lane is within 60 foot easement and Swan View Road is a 40 foot easement. The applicant has provided documentation regarding an easement and road user agreement for both roads.

Finding #21 – The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it because the existing private roads provide legal and physical access to the proposed lots.

F. Review of Applicable Plans

76-1-605(2)(b) M.C.A. states that *A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.* Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

1. Neighborhood Plan

The proposed subdivision is not located within a neighborhood plan area.

2. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of M.C.A. 76-1-601, and was adopted on October 12, 2012. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy (M.C.A.76-1-606). This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

G. Compliance with Local Zoning

The proposed subdivision is not located in a zoned area.

Finding #22 – The proposal generally complies with applicable plans because the property is not zoned, is not located in a neighborhood plan area and the proposal conforms to the regulations used in the review of subdivision in Flathead County.

V. SUMMARY OF FINDINGS

1. The proposal appears to have minimal impact on agriculture and agricultural water user facilities because the subject property is not currently irrigated for agricultural purposes, has no irrigation infrastructure on site, is not in an irrigation district, is not party to any existing irrigation agreements and the lot sizes would allow for the continuation of agriculture on the property.
2. The proposed water supply and wastewater services for lots 1 and 2 appear to be appropriate because adequate water quantity and quality appears to exist proposed community well and the water and wastewater systems for lots 1 and 2 would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation. [Condition 6]
3. Impacts on local wastewater and water for lots 3, 4, and 5 have not been determined because they are over 20 acres in size which are exempt from DEQ, the applicant has not sought on-site sewer and water facilities and a disclaimer shall be placed on the face of the final plat stating lots 3, 4, and 5 have not been reviewed or approved for individual sewer or water facilities. [Condition 19]
4. Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management. [Conditions 8 & 11d]

5. Impacts on area roads would appear to be acceptable because the Flathead County Road and Bridge Department had no concerns, the proposal has the potential to increase traffic by 20 trips per day on Swan View Road and 30 vehicle trips per day on Tango Fox Lane and if the variance is approved widening the primary access roads to county standards would not be required.[Condition 4]
6. Impacts on local services with regard to schools, recreation and mail delivery would appear to be acceptable as the proposed subdivision would add approximately two school age children, the applicant is proposing individual mailboxes, and a bike/pedestrian trail easement is required. [Condition 7 & 18]
7. Impacts from storm water run-off on Lots 1 and 2 will be acceptable because the existing soils are well drained, the proposed storm drainage calculation and retention areas appear to meet or exceed DEQ requirements. [Conditions 6 & 13]
8. Impacts on storm water drainage have not been determined for Lots 3, 4, and 5 because the lots are over 20 acres in size which are exempt from DEQ and a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for storm water drainage. [Condition 19]
9. Impacts on fire, medical and police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Somers Fire District and Flathead County Sheriff's Department in the event of an emergency. [Condition 2]
10. Adverse impacts to air quality and of noise are anticipated to be acceptable with standard conditions as all roads accessing the subdivision are already paved, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines. [Conditions 9 & 11c]
11. The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near any of these hazards.
12. No impacts from soils, geological and avalanche hazards are anticipated because the property is flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.
13. No impacts on flora are anticipated because no plant species of concern are found on-site, and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval. [Conditions 3 & 11e]
14. No impacts to riparian area, wetland and floodplain are anticipated on the subject property as there are no riparian area, wetlands or floodplain on the property.
15. The proposed subdivision could have an impact on migratory waterfowl, birds, deer, elk, bears, mountain lions and their habitat because agricultural lands along the river corridor have historically provided important habitat for numerous wildlife species and the nearby riparian areas compromise important movement corridors for both grizzly and black bears, as well as the occasional mountain lion, these impacts could be minimized with FWP recommended covenants however the applicant is not proposing any covenants for this subdivision.

16. The proposed subdivision will not adversely impact historical features because there are no known historic, archeological, or cultural sites on the subject property.
17. The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval. [Condition 12]
18. The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a rural/low density setting, both road are privately maintained and it would be constant with the surrounding community character.
19. The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018. [Condition 15]
20. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations. [Condition 14 and 16]
21. The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it because the existing private roads provide legal and physical access to the proposed lots.
22. The proposal generally complies with applicable plans because the property is not zoned, is not located in a neighborhood plan area and the proposal conforms to the regulations used in the review of subdivision in Flathead County.

VI. CONCLUSION

In accordance with the provisions of Section 4.5.7 of the Flathead County Subdivision Regulations, a review and evaluation of the preliminary plat application has been completed by the staff of the Flathead County Planning and Zoning Office. The proposed subdivision appears to generally comply with the subdivision review criteria, pursuant to the Findings of Fact. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, Findings of Fact and Conditions of Approval attached should be adopted.

VII. CONDITIONS OF APPROVAL

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv) and 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the Somers Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR and Finding of Fact (FOF) 9]

3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25 FCSR and FOF 13]
4. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR and FOF 5]
5. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23 FCSR]
6. The proposed water, wastewater treatment, and stormwater drainage systems for Lots 1 and 2 of the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20 and 4.7.21 FCSR and FOFs 2 & 7]
7. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28 FCSR and FOF 6]
8. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22 FCSR and FOF 4]
9. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 10]
10. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23 FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 10]

- d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR and FOF 4]
- e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25 FCSR and FOF 13]
- 12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i) M.C.A. and FOF 17]
- 13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.) FOF 7]
- 14. All required improvements shall be in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16 FCSR and FOF 20]
- 15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR and FOF 19 & 20]
- 16. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

- 18. A 15-foot bike/pedestrian path easement of shall be shown on the face of the final plat along Lower Valley Road. [Sections 4.7.19 FCSR and FOF 6]
- 19. The following statements shall be placed on the face of the final plat applicable to all lots:
 - f. Lots 3, 4 and 5 have not been reviewed or approved for individual sewer or water facilities or for storm water drainage. [FOF 3]

Planner: EKM